

REMARKS

Favorable reconsideration of this patent application, in light of the following discussion, is respectfully requested.

Claims 1-5, 7, 8, 14, 27, 28, 30, and 31 have been rejected as being unpatentable over Eigenmann under 35 USC 103; and Claims 6, 9-13, 15-26, and 29 have been objected to as containing allowable subject matter but being dependent from rejected parent claims. Claims 1-31 remain active in this patent application.

It is reiterated to the examiner that the present invention is directed toward an apparatus and method for fabricating or forming a collated array of pavement markers, and the Examiner has rejected the aforenoted claims as being un-

patentable over Eigenmann stating that, while Eigenmann did not in fact disclose any conveying means for the release liner, any means for depositing the plurality of pavement markers onto the release liner, or any means for forming the assembly of the release liner and pavement markers into a collated and nested array of pavement markers, such would be obvious from Eigenmann because such means would be necessary. Applicants strenuously disagree. Firstly, in accordance with accepted patent practice, the cited reference must disclose teachings which either anticipate or render obvious the subject matter claimed. Eigenmann is totally lacking in any such teachings. To say that such means would be necessary is pure speculation. Maybe the pavement markers of Eigenmann were manually placed upon the release sheet or release liner by operator personnel. With all due respect, it is respectfully submitted that the examiner's position becomes all the more untenable when the additional claims of the application are also considered - for example, in Claim 2, the conveying means conveys the markers as an elongated extrusion, and subsequently, cutting means cut the extrusion into the plurality of individual markers. Eigenmann does not disclose such apparatus or method. It is possible that the markers of Eigenmann were separately molded. As previously stated, this is all

speculation, and it is respectfully submitted that in order to reject the claims, the cited reference must disclose the particular teachings. Eigenmann has not met these tests or requirements. Similarly, in Claim 3, means are recited for indexably moving the marker extrusion whereby the cutting means can cut the extrusion into the desired markers. Eigenmann is again silent as to such apparatus, or the servo drive means of Claim 4. There is also no programmable logic controller (PLC) disclosed within Eigenmann as recited in Claim 5. Applicants certainly admit that they are not the first inventors to employ a programmable logic controller (PLC), that is, programmable logic controllers (PLC) certainly do exist, however, there are no teachings whatever of their use in connection with controlling apparatus for fabricating pavement markers as is specifically claimed. Additional examples of the deficiencies of Eigenmann can of course be noted, however, it is respectfully submitted that the Examiner can in fact appreciate the lack of significant teachings within Eigenmann to the effect that such reference cannot possibly anticipate or render obvious the claimed apparatus or method. Accordingly, it is respectfully submitted still further that all of the claims, as originally formulated, patentably define over all of the prior art of record.

It is lastly noted that the Abstract has been corrected, and the corrected Abstract appears upon a separate sheet attached hereto.

In light of the foregoing, it is submitted that this patent application is now in condition for allowance, and therefore, an early and favorable action is now anticipated and awaited.

Respectfully Submitted,  
**SCHWARTZ & WEINRIEB**



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